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HOUSE BILL 985

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Al Park

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR INSPECTION OF PRECINCT
VOTER LISTS BY POLL WATCHERS; PROVIDING FOR THE APPOINTMENT OF
POLL WATCHERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-2-27 NMSA 1978 (being Laws 1969,
Chapter 240, Section 46, as amended) is amended to read:

"1-2-27. WATCHERS--APPOINTMENT. --

A. The county chairman of each political party
represented on the ballot may appoint in writing two watchers
for each precinct. If any county chairman fails to make the
appointments, the precinct chairman of the political party may
appoint in writing two watchers for the precinct. If any
precinct chairman fails to make the appointments, or if no
person properly appointed is present at the polling place and

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1 offers to serve, the voters present belonging to that political
2 party may appoint in writing two watchers.

3 B. A candidate for elected office and election-
4 related organization may appoint one watcher per precinct if
5 the candidate or organization makes a written request to the
6 secretary of state and the county clerk at least twenty days
7 prior to the election date and specifies the precinct to be
8 watched and the name of the qualified appointee.

9 [~~B.-~~] C. In a primary election any group of six
10 candidates for county office for each political party
11 participating in the election may appoint in writing an
12 additional watcher for each precinct. No candidate, however,
13 shall join in more than one request for an additional watcher.

14 [~~C.-~~] D. In a primary election any group of three
15 candidates seeking nomination for statewide or district office
16 may appoint in writing one watcher for each of those precincts
17 as they may desire. No candidate, however, shall join in more
18 than one request for an additional watcher at any precinct."

19 Section 2. Section 1-2-29 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 48) is amended to read:

21 "1-2-29. WATCHERS-- PERMISSIBLE AND UNPERMISSIBLE
22 ACTIVITIES. --

23 A. Upon presentation of his written appointment to
24 the precinct board, a watcher may:

25 (1) be present from the time the precinct

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1 board convenes at the polling place until the completion of the
2 counting and tallying of the ballots after the polls close;

3 (2) be permitted to observe that the election
4 is being conducted in accordance with the Election Code;

5 (3) inspect the precinct voter list to
6 ascertain whether a voter has voted;

7 [~~(3)~~] (4) examine any voting machine being
8 used in the precinct in the same manner that challengers may
9 examine the voting machines; and

10 [~~(4)~~] (5) make in any polling place and
11 preserve for future reference written memoranda of any action
12 or omission on the part of any member of the precinct board
13 charged with the performance of a duty by the Election Code.

14 B. A watcher is subject to the same prohibitions
15 and restrictions as are placed upon challengers by the Election
16 Code. "

17 Section 3. Section 3-8-31 NMSA 1978 (being Laws 1971,
18 Chapter 306, Section 10, as amended) is amended to read:

19 "3-8-31. REGULAR MUNICIPAL ELECTION-- CHALLENGERS--
20 WATCHERS-- OBSERVERS. --

21 A. Upon petition filed with the municipal clerk by
22 an unopposed candidate or by both candidates for a municipal
23 office, if only two candidates are running for the office, or
24 by a majority of the candidates for a municipal office, if more
25 than two candidates are running for the office, those

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1 candidates may:

2 (1) appoint one person as a challenger and one
3 alternate for each polling place in the municipal election; and

4 (2) appoint one person as a watcher and one
5 alternate for each polling place in the municipal election.

6 B. An election-related organization may appoint one
7 watcher per precinct if the organization makes a written
8 request to the municipal clerk at least twenty days prior to
9 the election date and specifies the precinct to be watched and
10 the name of the qualified appointee.

11 [~~B.~~] C. The petition appointing a challenger and
12 watcher and alternates shall be filed not later than 5:00 p. m.
13 on the fourth day preceding the election.

14 [~~C.~~] D. Upon receipt of the petition, the municipal
15 clerk shall verify whether the challengers, watchers and
16 alternates are properly qualified pursuant to Subsection [~~D~~] E
17 of this section. Not later than 3:00 p. m. on the day prior to
18 the election, the municipal clerk shall prepare official
19 identification badges for those challengers, watchers and
20 alternates who are properly qualified. Such identification
21 badges shall be signed by the municipal clerk and contain the
22 name of the challenger, watcher or alternate and state that
23 person's title and the polling place where such person serves.
24 Challengers, watchers and alternates shall be responsible to
25 obtain their identification badges from the office of the

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1 municipal clerk prior to the opening of the polls on election
2 day.

3 ~~[D.]~~ E. A challenger, watcher or alternate shall
4 function only at a polling place that serves the precinct
5 within which such challenger, watcher or alternate resides. No
6 sheriff, deputy sheriff, marshal, deputy marshal, municipal or
7 state police officer, candidate or any person who is a spouse,
8 parent, child, brother or sister of a candidate to be voted for
9 at the election or any municipal clerk, deputy clerk or
10 assistant shall serve as a challenger, watcher or alternate.
11 No person shall serve as a challenger or watcher unless that
12 person is a qualified elector of the municipality.

13 ~~[E.]~~ F. Upon presentation of their official
14 identification badges to the precinct board, challengers,
15 watchers and alternates shall be permitted to be present at the
16 polling place from the time the precinct board convenes at the
17 polling place until the completion of the counting and tallying
18 of the ballots after the polls close.

19 ~~[F.]~~ G. Challengers, watchers and alternates shall
20 wear their official identification badges at all times while
21 they are present in the polling place. They shall not wear any
22 other form of identification or any pins or other
23 identification associated with any candidate, group of
24 candidates or any question presented at the election.

25 ~~[G.]~~ H. Challengers, watchers and alternates shall

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1 not:

2 (1) be permitted to perform any duty of a
3 precinct board member;

4 (2) handle the ballots, signature rosters,
5 absentee voter lists or voting machines;

6 (3) take any part in the tallying or counting
7 of the ballots; or

8 (4) interfere with the orderly conduct of the
9 election.

10 [~~H.~~] I. If a challenger, watcher or alternate is
11 wearing his official identification badge, it is a petty
12 misdemeanor to:

13 (1) deny him the right to be present at the
14 polling place;

15 (2) deny him the right to examine voting
16 machines as authorized by law;

17 (3) deny a challenger or alternate challenger
18 the right to challenge voters pursuant to Section 3-8-43 NMSA
19 1978 and inspect the signature rosters; or

20 (4) deny him the right to witness the counting
21 and tallying of ballots.

22 [~~H.~~] J. A challenger or alternate challenger, for
23 the purposes of interposing challenges pursuant to Section
24 3-8-43 NMSA 1978, shall be permitted to:

25 (1) inspect the voter registration list;

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1 (2) inspect the signature rosters or absentee
2 voter lists to determine whether entries are being made in
3 accordance with law;

4 (3) examine each voting machine before the
5 polls are opened to compare the number on the metal seal and
6 the numbers on the counters with the numbers on the key
7 envelope, to see that all ballot labels are in their proper
8 places and to see that the voting machine is ready for voting
9 at the opening of the polls;

10 (4) make written memoranda of any action or
11 omission on the part of any member of the precinct board and
12 preserve such memoranda for future use; and

13 (5) witness the counting and tallying of the
14 ballots.

15 [~~J.~~] K. A watcher or alternate watcher shall be
16 permitted to:

17 (1) observe the election to assure that it is
18 conducted in accordance with law;

19 (2) examine any voting machine used at the
20 polling place in the same manner that challengers may examine
21 voting machines;

22 (3) inspect the precinct voter list to
23 ascertain whether a voter has voted;

24 [~~3.~~] (4) make written memoranda of any action
25 or omission on the part of any member of the precinct board and

1 preserve such memoranda for future use; and

2 [~~(4)~~] (5) witness the counting and tallying of
3 ballots.

4 [~~K-~~] L. The governing body of a municipality may,
5 at its discretion, appoint one qualified elector for each
6 polling place to serve as an observer of the election. The
7 governing body shall make such appointment not later than 3:00
8 p.m. on the day before the election and shall notify the
9 municipal clerk of such appointment. The municipal clerk shall
10 issue identification badges to all observers. An observer
11 shall have no powers other than to observe the conduct of the
12 election and observe the counting and tallying and report to
13 the governing body. "

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